

Application of: Roy Lee Hood, et al.

Serial No.: 10/814,679

Amendment E

**REMARKS**

The claims have been amended to more clearly distinguish Applicant's invention from the references of record. The claims now recite that the polymeric articles are of an integrally molded thermoplastic structure. This language then added to independent claims 1 and 34 to make it unequivocally clear that the integral nature is achieved by molding as mentioned above. None of the references of record cited by the Examiner disclose such a structure. Claims 1 and 34 are the only independent claims in this application and both have been properly rejected only as being anticipated over several references. None of these references, as more fully discussed below, disclose the defined structure. It appears that the only point of contention is whether or not "integrally molded thermoplastic structure" is a structural phrase.

The Examiner has clearly and unequivocally stated that the claims of this application are drawn to a product and not to how the product is made. Newly presented claim 47 does that in a product by process claim format. The Examiner states "the patentability of a product does not depend on its method of production. If the product and the product by process claim is the same as or obvious from the product of the prior art, the claim is unpatentable even though the prior product was made by a different process." It is respectfully submitted that claims 1 and 34 and the claims depending therefrom are not product by process claims, and that the term "molded" is a structural term as is the phrase "integrally molded thermoplastic structure" and that none of the references of record disclose such a structure given that, all the claims are allowable over the cited references.

It is submitted that the Examiner has improperly dissected the previous claim phrase "integral one piece thermoplastic article of molded construction" and looked at only the word

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molded to impart meaning. The entire phrase must be evaluated to determine the scope of the claim. The Examiners' attention is directed to the following patents U.S. Patents 7,041,355, 7,132,161, 6,982,231 and 7,172,802 wherein the structure claims are replete with the same type of language for example molded, laminate, woven, bonded, and electroflocked. Laminate is both a structural term and a process term as are woven, molded and the other just mentioned terms.

Given this practice by the Patent Office, it is clear that the claims as presented herein, are structural and not a product by process. The same can be said for a welded structure, a bolted structure, a glued structure, all of which are structural in nature even though the word used is also a verb denoting a process or action. In this case, "integrally molded thermoplastic structure" is now in both claims 1 and 34. Structure is the noun and "integrally molded thermoplastic" is an adjectival phrase modifying "structure" further defining the specific type of structure as would the phrase woven cloth or welded assembly. The subject phrase can not be dissected and a meaning given to each individual word. To do so is error and inconsistent with prior Patent Office practices.

The claims stand rejected variously over Sallee, Zuiddam et al., Fukuda et al., Matsui et al., and Valyi et al. for the anticipation rejections. As was previously argued, none of the references discloses the instant "integrally molded structure" as defined in all the pending claims of the subject application except claim 47. The arguments presented in Amendment D are incorporated herein by reference.

The Examiner states that Sallee teaches an integral structure. This position is respectfully traversed. In column 5 of Sallee, starting at line 37, it is disclosed that "the attachment to the base camouflage material 100 may be permanent, or, more preferably, releasable and reattachable, allowing removal and replacement of garnishes of the invention." There is no

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disclosure of how these various attachments are to be achieved except for perhaps the releasable form. There is no disclosure of what the permanent attachment might be and whether or not that would be an “integrally molded structure.” For example, permanent attachment might have been used to mean that the mechanical interlocks are large enough that one can not remove the tufts. Additionally, it is not clear how it can be permanent and still be removable for replacement as the sentence appears to state. It is also not clear what is attached to the base camouflage material in a permanent manner. Regardless, there is no integrally molded structure disclosed as defined in the claims of the instant application. Thus, Sallee will not support an anticipation rejection.

The Examiner cites Zuiddam et al. as an anticipating reference. The Examiner points to column 3 where there is disclosure that the bristle portions can be fixedly positioned in the U-shaped channels. The Examiner also points to column 3, lines 38-50 in regard to ultrasonic welding. It is submitted that the Examiner is actually referring to column 4. What is welded together ultrasonically are the bases 16 of the U-shaped channel members and the straps 22 to form the underlying mat. The bristles 20 are not integrally attached to anything but are mechanically placed and held in position in the U-shaped channels. Such a construction is not an integral structure at least with regards to the bristles 20. Regardless, there is no integrally molded structure as now set forth in claims 1 and 34 and the claims depending therefrom. Thus, Zuiddam et al. will not support an anticipation rejection.

Claim 1 and some of its dependent claims have been rejected as anticipated or in the alternative, obvious, over Matsui et al. Firstly, the examiner has not set forth the required detail for an obviousness rejection since there is no obviousness rejection in paragraph 9 of the prior Office Action, only an anticipation rejection thus, the only rejection to be addressed is the anticipation rejection. It is pointed out, specifically in column 6 starting at line 9 of a Matsui et

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al. that the manufactured fibers are used to produce a pile by weaving, knitting or the like. This is not the defined integrally molded structure. Thus, Matsui et al. will not support an anticipation rejection.

Claim 1 and some of its depending claims stand rejected as being anticipated by or in the alternative, obvious, over Fukuda et al. as set forth in paragraph 10 of the previous Office Action. The obviousness rejection is improper since there is no obviousness rejection in paragraph 10 of the previous Office Action. Thus, only the anticipation portion of this rejection will be addressed. Fukuda et al. like Matsui et al. is directed to the production of a fabric that is napped. Fukuda et al. like Matsui et al. does not disclose an integrally molded structure but rather fabric (see for example) column 9 starting at line 51. Fabrics are typically woven or knit and are not an integrally molded structure as defined in independent claim 1 and the claims depending therefrom. Thus, Fukuda et al. will not support an anticipation rejection.

Independent Claim 34 and some of its dependent claims stand rejected as being anticipated by Valyi et al. as set forth in paragraph 11 of the previous Office Action. Assuming the Examiner is correct in characterizing Valyi et al. Valyi et al. do not disclose the first and second groups of projecting element portions and thus will not support an anticipation rejection. Valyi et al. disclose in essence a laminated structure having a plurality of layers in the form of a film, see for example column 2 starting at line 48. Thus, Valyi et al. will support an anticipation rejection.

Claims 2 and 4 are rejected as being obvious over Sallee as set forth in paragraph 13 of the previous action. Because claim 1 is allowable its dependent claims are also allowable which includes claims 2 and 4.

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Claims 9 and 41 stand rejected as being obvious over Sallee in view of Nesbitt for the reasons set forth in paragraph 14 of the previous action. Because claims 9 and 41 depend from allowable claims, they too are allowable.

Claims 13 and 45 stand rejected as being obvious over Rawlinson as set forth in paragraph 15 of the previous action. Because the claims from which claims 13 and 45 depend are allowable, as discussed above, these claims are also allowable.

Claims 14 and 46 are rejected as being obvious over Sallee in view of Sesselmann for the reasons set forth in paragraph 16 of the previous action. Because claims 14 and 46 depend from allowable claims, they are also allowable, as discussed above.

Claims 35-37 and 43 stand rejected as being obvious over Valyi et al. as set forth in paragraph 17 of the previous office action. Because these claims depend from allowable claims, they too are allowable as discussed above.

Claims 38, 40 and 45 stand rejected as being obvious over Valyi et al. in view of Allan et al. as set forth in paragraph 18 of the previous office action. Because these claims depend from allowable claims, as discussed above, they too are allowable.

The Examiner makes several comments in paragraph 14 of the current office action. It is respectfully pointed out, that these comments are not part of the rejection of any of the claims. However some of the issues therein will be addressed. The one reference, Zuiddam et al., discussing ultrasonic welding, does not address how one could make a planar base portion and form at least one or more projecting elements thereon. Only the parts making up the base are joined by molding. Ultrasonic welding and molding are not necessarily interchangeable processes particularly when making a product such as a mat with a plurality of projecting elements which can be like artificial grass. To make such a product given the teaching in

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Zuiddam et al., would likely be cost prohibitive if integral. In fact, the bristles in Zuiddam et al. are not bonded in any manner but are mechanically mounted making an artificial grass type product. Using the teaching of Zuiddam et al. to make a grass like product would also likely be cost prohibitive. The Examiner improperly treats “permanent” as “integral.” There is nothing found in Sallee to suggest an integral structure nor has the Examiner provided a definition of integral or compared the Examiner’s definition to what the “integrally molded structure” phrase means. Those skilled in the art of molding know what an “integrally molded structure” is and it is not any of those disclosed in the cited references. In fact, the present invention is not enabled by the cited references making them improper to cite. In an integrally molded structure, there is a continuum of polymer and also perhaps filler throughout the part that would require breakage of the part to separate one portion from another portion whereas permanent could achieve separation of part portions by removing, for example, a fastener or separating two portions at a glue joint which would have a discontinuity between the portions if there was a glue joint or fastener. Integral in the world of molding is a well understood term which is different than what the Examiner is apparently using the word integral as. In fact, as discussed above, the word “integrally” is not a free standing word in the claim but modifies molded and structure. “Integrally molded” also modifies “structure” specifically identifying what particular structure is involved. These are not process terms in the context in which they are used. In fact, many claims allowed by the Examiner in previously issued patents have similar terms as discussed above. One cannot isolate a word out of the context of the phrase in which it is used and give it a meaning in isolation. Free standing words take on meaning only in context. It is the phrase in this case which is important “integrally molded thermoplastic structure.” This is different than a “permanently bonded structure”. In fact, the Examiner’s own arguments belie the conclusions

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reached, by treating the alleged "process" terms as structure in the cited references. It cannot be both ways. In a permanently bonded structure there is an intervening bonding layer between the parts. These arguments particularly apply to the comments made in paragraph 15, 16, 17, 18, and 19. The claims must be looked at in totality not by isolating words and giving them a meaning out of context.

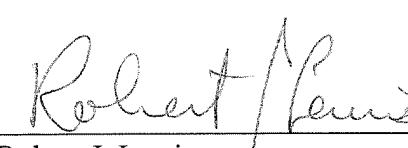
It is submitted that the claims are now in a condition for allowance. Reconsideration and withdrawal of the rejections are respectfully requested.

Applicants' request for extension of time of one month under 37 CFR 1.136(a) as well as Applicants' petition fee are enclosed herewith and filed simultaneously with this response.

If any issue regarding the allowability of any of the pending claims in the present application could be readily resolved, or if other action could be taken to further advance this application such as an Examiner's amendment, or if the Examiner should have any questions regarding the present amendment, it is respectfully requested that the Examiner please telephone Applicant's undersigned attorney in this regard.

Respectfully submitted,

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